

Jun 06, 2019

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

BEAU BALES and TRONG DANG,  
husband and wife,

Plaintiffs,

v.

AECOM N&E TECHNICAL  
SERVICES, LLC, a Foreign Limited  
Liability Company; URS FEDERAL  
SERVICES, a Foreign Corporation;  
WASHINGTON RIVER  
PROTECTION SOLUTIONS, LLC, a  
Foreign Limited Liability Company,

Defendants.

No. 4:18-cv-05156-SMJ

**ORDER GRANTING MOTION TO  
DISMISS**

Before the Court, without oral argument, is Defendants Washington River Protection Solutions, LLC (“WRPS”) and AECOM N&E Technical Services, LLC’s (“AECOM”) Motion to Dismiss Plaintiffs’ Claims Under the Anti-Kickback Act, ECF No. 24. Plaintiffs Beau Bales and Trong Dang have not filed an opposition to the motion. Having reviewed the submitted documents and the file in this matter, the Court is fully informed and grants the motion.

A complaint must contain “a short and plain statement of the claim showing that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2). Under Federal Rule of

1 Civil Procedure 12(b)(6), a complaint is subject to dismissal if it “fail[s] to state a  
2 claim upon which relief can be granted.” “Threadbare recitals of the elements of a  
3 cause of action, supported by mere conclusory statements, do not suffice.” *Ashcroft*  
4 *v. Iqbal*, 556 U.S. 662, 678 (2009).

5 On September 21, 2018, Plaintiffs filed the complaint alleging (1) violation  
6 of the Family and Medical Leave Act, (2) retaliation in violation of the Anti-  
7 Kickback Act, (3) wrongful discharge in violation of public policy, and (4) adverse  
8 tax consequences. ECF No. 1. WRPS and AECOM move to dismiss Plaintiffs’  
9 claim for retaliation. ECF No. 24. They argue that as a matter of law, Plaintiffs fail  
10 to state a claim because the Anti-Kickback Act<sup>1</sup> does not provide for a private cause  
11 of action. They are correct. Under the statute, only the federal government has a  
12 right of action to pursue violations, either civilly or criminally. *See* 41 U.S.C.  
13 §§ 8706, 8707.

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16 <sup>1</sup> Under the Anti-Kickback Act, a person may not

- 17 (1) provide, attempt to provide, or offer to provide a kickback;  
18 (2) solicit, accept, or attempt to accept a kickback; or  
19 (3) include the amount of a kickback prohibited by paragraph (1) or  
20 (2) in the contract price—  
(A) a subcontractor charges a prime contractor or a higher tier  
subcontractor; or  
(B) a prime contractor charges the Federal Government.

41 U.S.C. § 8702.


Accordingly, **IT IS HEREBY ORDERED:**

**1.** Defendants Washington River Protection Solutions, LLC and AECOM N&E Technical Services, LLC's Motion to Dismiss Plaintiffs' Claims Under the Anti-Kickback Act, **ECF No. 24**, is **GRANTED**.

**2.** Plaintiffs' retaliation claim is **DISMISSED WITH PREJUDICE**.

**IT IS SO ORDERED.** The Clerk's Office is directed to enter this Order and provide copies to all counsel.

**DATED** this 6th day of June 2019.

  
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SALVADOR MENDEZ, JR.  
United States District Judge